

APPENDIX

Sent to Governor

(April 2, 1979)

S.C.R. 3**S.C.R. 15****S.C.R. 24****S.C.R. 30****S.C.R. 59****S.C.R. 60****S.B. 168****FORTY-SEVENTH DAY**

(Tuesday, April 3, 1979)

The Senate met at 10:30 o'clock a.m., pursuant to adjournment, and was called to order by the President.

The roll was called and the following Senators were present: Andujar, Blake, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, Mauzy, McKnight, Meier, Mengden, Moore, Ogg, Parker, Patman, Price, Santiesteban, Short, Snelson, Traeger, Truan, Valc, Williams.

Absent-excused: Schwartz.

A quorum was announced present.

The Reverend James K. Denham, University Baptist Church, Austin, offered the invocation as follows:

(Written by Joy Garren)

I said:

I need laughter,
wealth,
power,
good health,
sunshine.

God said:

All laughter would be monotonous,
All wealth would not satisfy,
All power would be misused,
All good health would be taken for granted,
All sunshine makes a desert. Amen.

On motion of Senator Moore and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

LEAVE OF ABSENCE

Senator Schwartz was granted leave of absence for today on account of important business on motion of Senator Doggett.

MESSAGE FROM THE HOUSE

House Chamber
April 3, 1979

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I AM DIRECTED BY THE HOUSE TO INFORM THE SENATE THAT THE HOUSE HAS PASSED THE FOLLOWING:

HB 540, A bill to be entitled An Act relating to evidence in a civil action of necessity of services and reasonableness of charges by a person or institution licensed by the state.

S.B. 39, Relating to medical conditions preventing issuance or causing cancellation of a driver's license and preventing operation of a motor vehicle; amending Section 30, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes).

S.B. 67, Relating to the time, place and notice of county and municipal bond elections; amending Article 704 Revised Civil Statutes of Texas, 1925, as amended; and declaring an emergency.

S.B. 416, Relating to the authority of the General Land Office to reimburse certain employees for the expense of appointment as a notary public.

S.B. 417, Relating to the antitrust immunity of motor carriers, motor bus companies and railroads and their associations.

S.B. 618, Relating to the interest rate on delinquent taxes.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

RESOLUTIONS SIGNED

The President announced the signing in the presence of the Senate the following enrolled resolutions:

H.C.R. 137
H.C.R. 133
H.C.R. 132

CO-AUTHOR OF SENATE CONCURRENT RESOLUTION 32

On motion of Senator Schwartz and by unanimous consent, Senator Clower will be shown as Co-author of **S.C.R. 32**.

REPORTS OF STANDING COMMITTEES

Senator Jones of Taylor submitted the following report for the Committee on Finance:

S.B. 977

Senator Moore submitted the following report for the Committee on State Affairs:

H.B. 1068
H.B. 618
C.S.S.B. 1187 (Read first time)
S.B. 1189 (Amended)
S.B. 685
C.S.S.B. 174 (Read first time)
C.S.S.B. 891 (Read first time)
S.C.R. 41
H.B. 164
S.B. 53
S.B. 55

Senator Brooks submitted the following report for the Committee on Human Resources:

S.B. 674
S.B. 735
C.S.S.B. 181 (Read first time)
C.S.S.B. 501 (Read first time)

SENATE BILLS AND RESOLUTION ON FIRST READING

On motion of Senator Jones of Taylor and by unanimous consent, the following bills and resolution were introduced, read first time and referred to the Committee indicated:

S.B. 1217 by Traeger State Affairs
Relating to the filming of records of the Employees Retirement System of Texas and destruction of the original records.

S.B. 1218 by Jones of Taylor Education
Relating to admission to the public free schools of certain children placed in foster care.

S.B. 1219 by Moore, McKnight, Brooks State Affairs
Relating to the designation of Prairie View A&M University as a special purpose statewide institution of higher education for low income and culturally distinct individuals; and declaring an emergency.

S.C.R. 65 by Jones of Taylor

Finance

Bringing to the attention of state agencies, including institutions of higher education, the constitutional and statutory restrictions on borrowing or investing public funds.

HOUSE BILLS ON FIRST READING

The following bills received from the House were read the first time and referred to the Committee indicated:

H.B. 28, To Committee on Natural Resources.
H.B. 257, To Committee on Natural Resources.
H.B. 348, To Committee on Natural Resources.
H.B. 434, To Committee on State Affairs.
H.B. 436, To Committee on State Affairs.
H.B. 583, To Committee on Natural Resources.
H.B. 882, To Committee on Economic Development.
H.B. 908, To Committee on Intergovernmental Relations.
H.B. 918, To Committee on State Affairs.
H.B. 923, To Committee on State Affairs.
H.B. 958, To Committee on Natural Resources.
H.B. 976, To Committee on Natural Resources.
H.B. 997, To Committee on Intergovernmental Relations.
H.B. 1004, To Committee on Intergovernmental Relations.
H.B. 1006, To Committee on Natural Resources.
H.B. 1067, To Committee on State Affairs.
H.B. 1079, To Committee on Economic Development.
H.B. 1175, To Committee on Natural Resources.
H.B. 1184, To Committee on Economic Development.
H.B. 1272, To Committee on Natural Resources.
H.B. 1146, To Committee on Administration.

SENATE RESOLUTION 375

Senator Mauzy offered the following resolution:

S.R. 375, In memory of The Reverend Martin Luther King, Jr., on the anniversary of his death.

The resolution was read.

On motion of Senator Mauzy and by unanimous consent, the resolution was considered immediately and was adopted.

SENATE BILL 270 WITH HOUSE AMENDMENT

Senator Santiesteban called **S.B. 270** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Amendment No. 1 - Coleman

Amend **S.B. 270** on line 19, page 4 by striking the word "or" and adding the following on line 24 page 4:

“;or” after the word “adoption”, and adding a new subsection (5) under Section 18.06 to read as follows:

“(5) the Texas Department of Human Resources to provide services, to ensure that every effort has been made to enable the parents to provide a family for their own children.”

The amendment was read.

Senator Santiesteban moved to concur in the House amendment.

The motion prevailed.

SENATE BILL 462 WITH HOUSE AMENDMENT

Senator Farabee called **S.B. 462** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment No. 1 - Coleman

Amend **S.B. 462** in the following manner:

(1) At line 19 of page 1, by inserting at the end of Section 1:

“This section does not exonerate an executor or other personal representative from liability for his or her negligence.”

(2) At line 26 of page 3, by inserting at the end of Section 2:

“This subdivision does not exonerate a trustee from liability for his or her negligence.”

The amendment was read.

Senator Farabee moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Schwartz.

SENATE BILL 661 WITH HOUSE AMENDMENTS

Senator Clower called **S.B. 661** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment No. 1 - Schlueter

Amend Senate Bill 661 by amending quoted Section (a) of SECTION 1 by deleting the words “including any commercial vehicle as defined in this section,” and inserting the following:

“including any commercial vehicles and heavy commercial vehicles as defined in this article.”

Committee Amendment No. 2 - Schlueter

Amend **S.B. 661** by striking the quoted Subsection (n) in Section 2 and inserting in lieu thereof the following:

“(n) ‘Heavy Commercial Vehicle’ means any domestic or foreign truck or truck tractor that weighs 25,000 or more pounds gross vehicular weight (GVW) or any trailer or semitrailer designed for use in combination with any truck or truck tractor weighing 25,000 or more pounds gross vehicular weight (GVW) and that is not used primarily for personal, family, or household use.”

The amendments were read.

Senator Clower moved to concur in the House amendments.

The motion prevailed.

**COMMITTEE SUBSTITUTE SENATE BILL 337
ON SECOND READING**

On motion of Senator Santiesteban and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 337, Relating to defects in indictments and informations; amending Sections 1 and 2, Article 28.01, Code of Criminal Procedure, 1965, as amended; repealing Articles 21.03 and 21.04, Code of Criminal Procedure, 1965, as amended; and declaring an emergency.

The bill was read second time and was passed to engrossment.

**COMMITTEE SUBSTITUTE SENATE BILL 337
ON THIRD READING**

Senator Santiesteban moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.S.B. 337** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Schwartz.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0.

Absent-excused: Schwartz.

SENATE BILL 338 ON SECOND READING

On motion of Senator Santiesteban and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 338, Relating to the requirement that a defendant give prior written notice to the attorney for the State when the defendant intends to rely on the defense of alibi; amending Code of Criminal Procedure, 1965, as amended, by adding a new Article 27.111; and declaring an emergency.

The bill was read second time and was passed to engrossment.

SENATE BILL 338 ON THIRD READING

Senator Santiesteban moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **S.B. 338** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Schwartz.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0.

Absent-excused: Schwartz.

SENATE BILL 227 WITH HOUSE AMENDMENTS

Senator Vale called **S.B. 227** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Amendment No. 1 - Caraway

Amend Section 1 of **S.B. 227** by adding the following sentence at the end of Section 71.07 (a):

Furthermore, fee may be levied only upon an affirmative vote of a majority of the student body voting of the University of Texas at San Antonio and that the caption conform to the body of the bill.

Amendment No. 2 - Elizondo

Amend Committee Amendment No. 1 to S.B. No. 227, by adding a period after the word "Antonio" on line 3 and striking the remainder of the sentence.

The amendments were read.

Senator Vale moved to concur in the House amendments.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Schwartz.

**MOTION TO PLACE
COMMITTEE SUBSTITUTE SENATE BILL 500
ON SECOND READING**

Senator Jones of Harris moved to suspend the regular order of business to take up for consideration at this time:

C.S.S.B. 500, Relating to offenses involving rape, sexual abuse, or assault.

The motion was lost by the following vote (Not receiving two-thirds vote of the Members of the Senate present): Yeas 16, Nays 14.

Yeas: Andujar, Brooks, Clower, Doggett, Farabee, Howard, Jones of Harris, Jones of Taylor, Mauzy, Meier, Ogg, Parker, Santiesteban, Snelson, Truan, Vale.

Nays: Blake, Braecklein, Creighton, Harris, Kothmann, Longoria, McKnight, Mengden, Moore, Patman, Price, Short, Traeger, Williams.

Absent-excused: Schwartz.

BILLS AND RESOLUTION SIGNED

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bills and resolution:

S.C.R. 23

S.B. 173 (Signed subject to provisions of Sec. 49a, Article III, Constitution of State of Texas)

S.B. 244

S.B. 266

S.B. 363

S.B. 397

S.B. 405

S.B. 419

S.B. 511

S.B. 573

S.B. 589 (Signed subject to provisions of Sec. 49a, Article III, Constitution of State of Texas)

S.B. 469

MOTION TO PLACE

SENATE CONCURRENT RESOLUTION 48 ON SECOND READING

Senator Clower moved to suspend the regular order of business to take up for consideration at this time:

S.C.R. 48, Recommending a change in the Texas Emergency Fuel Allocation Office fuel redistribution policies which would assure bus and taxicab applicants one hundred percent of their fuel needs during an allocation contingency.

On motion of Senator Clower and by unanimous consent, the motion to suspend the regular order to consider **S.C.R. 48** was withdrawn.

SENATE BILL 431 ON SECOND READING

On motion of Senator Farabee and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 431, Relating to the creation of the Texas Workers' Compensation Advisory Committee; providing for members; establishing terms of office and procedures for filling vacancies; making the Chairman of the Industrial Accident

Board an ex-officio member and presiding officer of the Committee; providing for regular meetings of the Committee and assigning functions and duties; authorizing per diem and expenses; authorizing staff; and making the Committee subject to the Texas Sunset Act.

The bill was read second time and was passed to engrossment.

SENATE BILL 431 ON THIRD READING

Senator Farabee moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **S.B. 431** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Schwartz.

The bill was read third time and was passed.

SENATOR ANNOUNCED PRESENT

Senator Schwartz who had previously been recorded as "Absent-Excused" was announced "Present".

(Senator Brooks in Chair)

SENATE BILL 910 ON SECOND READING

Senator McKnight moved to suspend the regular order of business to take up for consideration at this time:

S.B. 910, Relating to the regulation of permanent storage or disposal of radioactive materials.

The motion prevailed by the following vote: Yeas 23, Nays 8.

Yeas: Andujar, Blake, Creighton, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, McKnight, Meier, Mengden, Moore, Ogg, Patman, Price, Santiesteban, Schwartz, Short, Snelson, Traeger, Vale, Williams.

Nays: Braecklein, Brooks, Clower, Doggett, Longoria, Mauzy, Parker, Truan.

The bill was read second time.

(President in Chair)

Senator McKnight offered the following committee amendment to the bill:

Amend Senate Bill 910, SECTION 2 by adding the following new subsection (L) to read as follows:

(L) The Agency may prescribe and collect a fee for each license for concentration, storage, or disposal of radioactive materials in such amount as may be necessary to cover the reasonable expenses incurred by the Agency in processing the licensee's application and enforcing the Agency's regulations for

the duration of the license granted, but in no case shall such license fee exceed the fee being charged by the United States Nuclear Regulatory Commission or its successor for licenses of similar nature and scope during the time period in which the license is effective. Fees received under this paragraph shall be placed in the Radiation and Perpetual Care Fund and are appropriated to and may be expended by the Agency as required for operating expenses incurred in such license processing and regulation enforcement for sites concentrating, storing, or disposing of radioactive materials.

Amend Senate Bill 910, SECTION 3 by striking all of subsection (d), lines 22, 23, and 24, and substituting in its place the following new subsection (d) to read as follows:

(d) Money and collateral in the fund shall not be used for normal operating expenses of the Agency, except as provided in Section 6 (L) of this Act, and are exempt from all provisions relating to lapsing of appropriations.

The committee amendment was read and was adopted.

On motion of Senator McKnight and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by the following vote: Yeas 23, Nays 8.

Yeas: Andujar, Blake, Creighton, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, McKnight, Meier, Mengden, Moore, Ogg, Patman, Price, Santiesteban, Schwartz, Short, Snelson, Traeger, Vale, Williams.

Nays: Braecklein, Brooks, Clower, Doggett, Longoria, Mauzy, Parker, Truan.

MOTION TO PLACE SENATE BILL 910 ON THIRD READING

Senator McKnight moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **S.B. 910** be placed on its third reading and final passage.

The motion was lost by the following vote (Not receiving four-fifths vote of the Members of the Senate present): Yeas 21, Nays 10.

Yeas: Andujar, Blake, Creighton, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, McKnight, Meier, Mengden, Moore, Ogg, Price, Santiesteban, Schwartz, Short, Snelson, Traeger, Williams.

Nays: Braecklein, Brooks, Clower, Doggett, Longoria, Mauzy, Parker, Patman, Truan, Vale.

SENATE BILL 357 ON SECOND READING

Senator Meier moved to suspend the regular order of business to take up for consideration at this time:

S.B. 357, Relating to the regulation of certain business and insurance practices; amending certain provisions of Chapter 17, Business & Commerce Code, as amended.

The motion prevailed by the following vote: Yeas 22, Nays 9.

Yeas: Andujar, Blake, Braecklein, Brooks, Creighton, Farabee, Harris, Howard, Jones of Taylor, Kothmann, McKnight, Meier, Mengden, Moore, Ogg, Price, Santiesteban, Short, Snelson, Traeger, Vale, Williams.

Nays: Clower, Doggett, Jones of Harris, Longoria, Mauzy, Parker, Patman, Schwartz, Truan.

The bill was read second time.

Senator Meier offered the following committee amendment to the bill:

Amend Senate Bill 357 by striking Section 1 of the bill and substituting in lieu thereof the following:

SECTION 1. Section 17.43, Business & Commerce Code, as added, is amended to read as follows:

“Sec. 17.43. CUMULATIVE REMEDIES. The provisions of this subchapter are not exclusive, but the remedies provided are not cumulative of the remedies provided by any other law. A violation of a provision of law other than this subchapter is not in and of itself a violation of this subchapter. An act or practice that is a violation of a provision of law other than this subchapter may be made the basis of an action under this subchapter if the act or practice is proscribed by a provision of this subchapter. [The remedies provided in this subchapter are in addition to any other procedures or remedies provided for in any other law.] The provisions of this subchapter do not in any way preclude other political subdivision of this state from dealing with deceptive trade practices.’”

The committee amendment was read.

On motion of Senator Harris and under the provisions of Senate Rule 19, the committee amendment was withdrawn.

Senator Meier offered the following committee amendment to the bill:

Amend Senate Bill 357 by striking Section 8 of the bill and substituting in lieu thereof the following:

“SECTION 8. Chapter 17, Business & Commerce Code, as amended, is amended by adding Section 17.50B to read as follows:

“Sec. 17.50B. DAMAGES: DEFENSES. (a) In an action brought under Section 17.50 of this subchapter, it is a defense to the cause of action if the defendant proves that, prior to, or at the time of the transaction in question, the consumer was given written notice of the defendant's reliance on:

‘(1) information obtained from official government records;

‘(2) information obtained from another source, if the information was false or inaccurate and the defendant did not know and could not reasonably have known of the falsity or inaccuracy of the information; or

‘(3) the results of a test required or prescribed by a government agency if the results were false or inaccurate and the defendant did not know, and could not reasonably have known of the falsity or inaccuracy of the results.

'(b) In an action brought under Section 17.50 of this subchapter, it is a defense to a cause of action if the defendant proves that he received notice from the consumer advising the defendant of the nature of the consumer's complaint and of the amount of actual damages claimed, and that within 30 days after the day on which the defendant received the notice the defendant tendered to the consumer:

'(1) the amount of actual damages claimed; and
'(2) the expenses, including attorneys' fees, if any, reasonably incurred by the consumer in asserting the claim against the defendant.'"

The committee amendment was read.

On motion of Senator Harris and under the provisions of Senate Rule 19, the committee amendment was withdrawn.

Senator Meier offered the following committee amendment to the bill:

Amend Senate Bill 357 by striking Section 11 of the bill and substituting in lieu thereof the following:

"SECTION 11. Chapter 17, Business & Commerce Code, as amended, is amended by adding Section 17.56A to read as follows:

"Sec. 17.56A. LIMITATIONS. All actions brought under this subchapter must be commenced within two years after the date on which the false, misleading, or deceptive act or practice occurred, or within two years after the consumer discovered, or in the exercise of reasonable diligence, should have discovered the occurrence of the false, misleading, or deceptive act or practice."

The committee amendment was read.

On motion of Senator Harris and under the provisions of Senate Rule 19, the committee amendment was withdrawn.

Senator Meier offered the following committee amendment to the bill:

Amend Senate Bill 357 as follows:

(1) On page 8 of the bill insert the word "reasonable" between the word "and" and the word "attorneys'" on line 2;

(2) On page 8 of the bill strike the words "reasonable in relation to the amount of work expended" beginning on line 2 and insert the following: "reasonable in relation to the amount of work expended";

(3) On page 9 of the bill insert the word "reasonable" between the word "and" and the word "attorneys'" on line 3; and

(4) On page 9 of the bill strike the words "reasonable in relation to the amount of work expended" beginning on line 3, and substitute the following: "reasonable in relation to the amount of work expended".

The committee amendment was read.

On motion of Senator Harris and under the provisions of Senate Rule 19, the committee amendment was withdrawn.

(Senator Farabee in Chair)

Senator Meier offered the following amendment to the bill:

Amend **S.B. 357** by striking all below the enacting clause and substituting the following:

SECTION 1. Section 17.43, Business & Commerce Code, as added, is amended to read as follows:

Sec. 17.43. CUMULATIVE REMEDIES. The provisions of this subchapter are not exclusive, but the remedies provided are not cumulative of the remedies provided by any other law. A violation of a provision of law other than this subchapter is not in and of itself a violation of this subchapter. An act or practice that is a violation of a provision of law other than this subchapter may be made the basis of an action under this subchapter if the act or practice is proscribed by a provision of this subchapter or is declared by such other law to be actionable under this subchapter. ~~[The remedies provided in this subchapter are in addition to any other procedures or remedies provided for in any other law.]~~ The provisions of this subchapter do not in any way preclude other political subdivisions of this state from dealing with deceptive trade practices.

SECTION 2. Subsection (5), Section 17.45, Business & Commerce Code, as amended, is amended to read as follows:

(5) "Unconscionable action or course of action" means an act or practice which, to a person's detriment:

(A) was intended to and did take ~~[takes]~~ advantage of the lack of knowledge, ability, experience, or capacity of a person to a grossly unfair degree; or

(B) was intended to and did result ~~[results]~~ in a gross disparity between the value received and consideration paid, in a transaction involving transfer of consideration.

SECTION 3. Section 17.45, Business & Commerce Code, as amended, is amended by adding Subsections (10) and (11) to read as follows:

(10) "Actual damages" means pecuniary loss including reasonably foreseeable incidental and consequential damages and does not include any payment for mental or physical pain or anguish except in cases where the act complained of resulted primarily in damages for physical injury to the person.

(11) "Bona fide error" means an error that is not committed knowingly or with reckless disregard for the truth including, but not limited to, a clerical error.

SECTION 4. Section 17.46, Business & Commerce Code, as amended, is amended to read as follows:

Sec. 17.46. DECEPTIVE TRADE PRACTICES UNLAWFUL. (a) False, misleading, or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful and are subject to action by the consumer protection division under Sections 17.47, 17.58, 17.60, and 17.61 of this code.

(b) Except as provided in Subsection (d) of this section, the ~~[The]~~ term "false, misleading, or deceptive acts or practices" includes, but is not limited to, the following acts:

- (1) passing off goods or services as those of another;
- (2) causing confusion or misunderstanding as to the source, sponsorship, approval, or certification of goods or services;
- (3) causing confusion or misunderstanding as to affiliation, connection, or association with, or certification by, another;

(4) using deceptive representations or designations of geographic origin in connection with goods or services;

(5) knowingly representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have or that a person has a sponsorship, approval, status, affiliation, or connection which he does not;

(6) representing that goods are original or new if they are deteriorated, reconditioned, reclaimed, used, or secondhand;

(7) knowingly representing that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another;

(8) disparaging the goods, services, or business of another by false or misleading representation of facts;

(9) advertising goods or services with intent not to sell them as advertised;

(10) advertising goods or services with intent not to supply a reasonable expectable public demand, unless the advertisements disclosed a limitation of quantity;

(11) making false or misleading statements of fact concerning the reasons for, existence of, or amount of price reductions;

(12) representing that an agreement confers or involves rights, remedies, or obligations which it does not have or involve, or which are prohibited by law;

(13) knowingly making false or misleading statements of fact concerning the need for parts, replacement, or repair service;

(14) misrepresenting the authority of a salesman, representative or agent to negotiate the final terms of a consumer transaction;

(15) basing a charge for the repair of any item in whole or in part on a guaranty or warranty instead of on the value of the actual repairs made or work to be performed on the item without stating separately the charges for the work and the charge for the warranty or guaranty, if any;

(16) disconnecting, turning back, or resetting the odometer of any motor vehicle so as to reduce the number of miles indicated on the odometer gauge;

(17) advertising of any sale by fraudulently representing that a person is going out of business;

(18) using or employing a chain referral sales plan in connection with the sale or offer to sell of goods, merchandise, or anything of value, which uses the sales technique, plan, arrangement, or agreement in which the buyer or prospective buyer is offered the opportunity to purchase merchandise or goods and in connection with the purchase receives the seller's promise or representation that the buyer shall have the right to receive compensation or consideration in any form for furnishing to the seller the names of other prospective buyers if receipt of the compensation or consideration is contingent upon the occurrence of an event subsequent to the time the buyer purchases the merchandise or goods;

(19) representing that a guarantee or warranty confers or involves rights or remedies which it does not have or involve, provided, however, that nothing in this subchapter shall be construed to expand the implied warranty of merchantability as defined in Sections 2.314 through 2.318 of the Business & Commerce Code to involve obligations in excess of those which are appropriate to the goods;

(20) selling or offering to sell, either directly or associated with the sale of goods or services, a right of participation in a multi-level distributorship.

As used herein, "multi-level distributorship" means a sales plan for the distribution of goods or services in which promises of rebate or payment are made to individuals, conditioned upon those individuals recommending or securing additional individuals to assume positions in the sales operation, and where the rebate or payment is not exclusively conditioned on or in relation to proceeds from the retail sales of goods; or

(21) representing that work or services have been performed on, or parts replaced in, goods when the work or services were not performed or the parts replaced;

(22) ~~((21))~~ filing suit founded upon a written contractual obligation of and signed by the defendant to pay money arising out of or based on a consumer transaction for goods, services, loans, or extensions of credit intended primarily for personal, family, household, or agricultural use in any county other than in the county in which the defendant resides at the time of the commencement of the action or in the county in which the defendant in fact signed the contract, ~~[except that it is not a violation of this subsection where the defendant resides in a county having a population of less than 250,000 and the suit was filed in the nearest county with a population of 250,000 or more;]~~ provided, however, that a violation of this subsection shall not occur where it is shown by the person filing such suit he neither knew or had reason to know that the county in which such suit was filed was neither the county in which the defendant resides at the commencement of the suit nor the county in which the defendant in fact signed the contract ~~[and provided further that a violation of this Act shall not occur by the joinder of multiple parties to an obligation where venue is otherwise proper as to the primary obligor or to any joint obligor].~~

(c) ~~[(1)]~~ It is the intent of the legislature that in construing Subsection (a) of this section in suits brought under Section 17.47 of this subchapter the courts to the extent possible will be guided by Subsection (b) of this section and the interpretations given by the Federal Trade Commission and federal courts to Section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C.A. 45(a)(1)).

~~[(2)] It is the intent of the legislature that in construing Subsection (a) of this section in suits brought under Section 17.50 of this subchapter the courts to the extent possible will be guided by Subsection (b) of this section and the interpretations given by the federal courts to Section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C.A. 45(a)(1)).~~

(d) For the purposes of the relief authorized in Section 17.50(a)(1) of this subchapter, the term "false, misleading, or deceptive acts or practices" is limited to the acts enumerated in specific subdivisions of subsection (b) of this section.

SECTION 5. Section 17.50, Business & Commerce Code, as amended, is amended to read as follows:

Sec. 17.50. RELIEF FOR CONSUMERS. (a) A consumer may maintain an action if he has sustained actual damages as a result of ~~[been adversely affected by]~~ any of the following:

(1) the use or employment by any person of a false, misleading, or deceptive act or practice that is specifically enumerated in a subdivision of Section 17.46(b) ~~[an act or practice declared to be unlawful by Section 17.46]~~ of this subchapter;

(2) breach of an express or implied warranty;

(3) any unconscionable action or course of action by any person;

or

(4) the use or employment by any person of an act or practice in violation of Article 21.21, Texas Insurance Code, as amended, or rules or regulations issued by the State Board of Insurance under Article 21.21, Texas Insurance Code, as amended,

(b) In a suit filed under this section, each consumer who prevails may obtain:

(1) ~~[three times]~~ the amount of actual damages plus court costs and reasonable attorney's fees ~~[reasonable in relation to the amount of work expended]~~ or if the trier of fact finds that the act complained of was unconscionable, the trier of fact may award an amount that is not more than three times the amount of actual damages;

(2) an order enjoining such acts or failure to act;

(3) orders necessary to restore to any party to the suit any money or property, real or personal, which may have been acquired in violation of this subchapter; and

(4) any other relief which the court deems proper, including the appointment of a receiver or the revocation of a license or certificate authorizing a person to engage in business in this state if the judgment has not been satisfied within three months of the date of the final judgment. The court may not revoke or suspend a license to do business in this state or appoint a receiver to take over the affairs of a person who has failed to satisfy a judgment if the person is a licensee of or regulated by a state agency which has statutory authority to revoke or suspend a license or to appoint a receiver or trustee. Costs and fees of such receivership or other relief shall be assessed against the defendant.

(c) On a finding by the court or jury that an action under this section was groundless and brought in bad faith, or brought for the purpose of harassment, the court shall ~~[may]~~ award to the defendant reasonable attorneys' fees ~~[in relation to the amount of work expended,]~~ and court costs.

SECTION 6. Section 17.50A, Business & Commerce Code, as added, is amended to read as follows:

Sec. 17.50A. DAMAGES: LIMITATION ~~[DEFENSES]~~. In an action brought under Section 17.50 of this subchapter, actual damages only and reasonable attorneys' fees ~~[reasonable in relation to the amount of work expended]~~ and court costs may be awarded where ~~[the defendant]~~:

(1) the defendant proves that the action complained of resulted from a bona fide error including but not limited to a clerical error ~~[notwithstanding the use of reasonable procedures adopted to avoid the error];~~ or

(2) (a) subject to the provisions of subdivision (b), the defendant proves that he received ~~[had]~~ no written notice from the consumer advising the defendant of the nature of the consumer's complaint and of the amount of actual damages claimed before suit was filed, or that within 30 days after he received such a ~~[was given]~~ written notice he tendered to the consumer:

(A) ~~[a]~~ the cash value of the consideration received from the consumer or the cash value of the benefit promised, whichever is greater; and

(B) ~~[b]~~ the expenses, including attorneys' fees, if any, reasonably incurred by the consumer in asserting his claim against the defendant, or

(b) if the giving of 30 days written notice is rendered impracticable by reason of the necessity of filing suit in order to prevent the expiration of the statute of limitations, or if the consumer's claim is asserted by way of counterclaim, the tender provided for in subdivision (a) may be made within 30 days after the filing of said suit or counterclaim; or

(3) in the case of a suit under Section 17.50(a)(2) the defendant proves that he was not given a reasonable opportunity to cure the defects or malfunctions before suit was filed ~~[or]~~; or

(4) it is claimed that the act complained of resulted primarily in damages for physical injury to the person.

SECTION 7. Chapter 17, Business & Commerce Code, as amended, is amended by adding Section 17.50B to read as follows:

Sec. 17.50B. DAMAGES: DEFENSES. (a) In an action brought under Section 17.50 of this subchapter, it is a defense to the cause of action if the defendant proves that, prior to, or during the course of time the transaction in question, the consumer was given reasonable and timely notice of the defendant's reliance on:

(1) information obtained from official government records, if the information was false or inaccurate and the defendant did not know and could not reasonably have known of the falsity or inaccuracy of the information;

(2) information obtained from another source, if the information was false or inaccurate and the defendant did not know and could not reasonably have known of the falsity or inaccuracy of the information; or

(3) the results of a test required or prescribed by a government agency if the results were false or inaccurate and the defendant did not know, and could not reasonably have known of the falsity or inaccuracy of the results.

(b) In an action brought under Section 17.50 of this subchapter, it is a defense to a cause of action if the defendant proves that he received notice from the consumer advising the defendant of the nature of the consumer's complaint and of the amount of actual damages claimed, and that within 30 days after the day on which the defendant received the notice the defendant tendered to the consumer:

(1) the amount of actual damages claimed; and

(2) the expenses, including attorneys' fees, if any, reasonably incurred by the consumer in asserting the claim against the defendant.

SECTION 8. Chapter 17, Business & Commerce Code, as amended, is amended by adding Section 17.51 to read as follows:

Sec. 17.51. CLASS ACTION PROHIBITED. Notwithstanding any other provision of law or rule of civil procedure, a class action may not be brought under Subchapter E of this chapter except by the attorney general.

SECTION 9. Section 17.56, Business & Commerce Code, as amended, is amended to read as follows:

Sec. 17.56. VENUE. An action brought which alleges a claim to relief under Section 17.50 of this subchapter may be commenced in the county in which the person against whom the suit is brought resides, has his principal place of business, or has a fixed and established place of business at the time the suit is brought, or in the county in which the alleged act or practice occurred [done business].

SECTION 10. Chapter 17, Business & Commerce Code, as amended, is amended by adding Section 17.56A to read as follows:

Sec. 17.56A. LIMITATION. All actions brought under this subchapter must be commenced within two years after the date on which the false, misleading, or deceptive act or practice occurred, or within two years after the consumer discovered, or in the exercise of reasonable diligence, should have discovered the occurrence of the false, misleading, or deceptive act or practice. The period of limitation provided in this section may be extended for a period of 180 days if the plaintiff proves that failure timely to commence the action was caused by the defendant's knowingly engaging in conduct solely calculated to induce the plaintiff to refrain from or postpone the commencement of the action.

SECTION 11. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Jones of Harris requested a full reading of the amendment.

The Secretary of the Senate commenced to read the amendment in its entirety.

Senator Doggett raised a Point of Order, suggesting a lack of quorum of the Senate.

The Presiding Officer (Senator Farabee in Chair) overruled the Point of Order, stating the last roll call reflected a quorum present.

The Secretary of the Senate resumed reading the amendment in its entirety.

Senator Jones of Harris offered the following amendment to the pending amendment:

Amend Senate Bill 357 by striking Section 1 of the bill and substituting in lieu thereof the following:

SECTION 1. Section 17.43, Business & Commerce Code, as added, is amended to read as follows:

"Section 17.43. CUMULATIVE REMEDIES. The provisions of this subchapter are not exclusive. The remedies provided in this subchapter are in addition to any other procedures or remedies provided for in any other law [-] , but no accumulation of remedies shall be permitted which would result in recovery of actual damages under separate statutes for the same act or practice. A violation of a provision of law other than this subchapter is not in and of itself a violation of this subchapter, unless the act or practice is proscribed by a provision of this subchapter or is declared by such other law to be a deceptive trade practice or to be actionable under this subchapter. The provisions of this subchapter do not in any way preclude other political subdivisions of this state from dealing with deceptive trade practices."

Senator Jones of Harris requested a full reading of the amendment to the pending amendment.

The Secretary of the Senate read the amendment to the pending amendment in its entirety.

MESSAGE FROM THE HOUSE

House Chamber
April 3, 1979

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I AM DIRECTED BY THE HOUSE TO INFORM THE SENATE THAT THE HOUSE HAS PASSED THE FOLLOWING:

HB 291, A bill to be entitled An Act relating to insurance coverage for services of certain doctors of chiropractic medicine; amending Sections 1 and 3, Article 21.52, Insurance Code.

HB 283, A bill to be entitled An Act relating to bonds required by certain counties for the construction of streets and roads in subdivisions; amending Section 3, Chapter 436, Acts of the 55th Legislature, Regular Session, 1957 (Article 6626a, Vernon's Texas Civil Statutes).

HB 304, A bill to be entitled An Act relating to a family farm security program to encourage loans for farm real estate.

HB 874, A bill to be entitled An Act relating to courtroom and office space for justices of the peace.

HB 853, A bill to be entitled An Act relating to the establishment of a cancer registry and the reporting of data from the records of certain patients.

HB 883, A bill to be entitled An Act relating to the liability of officers and judgment creditors for execution of a writ of a court.

HB 967, A bill to be entitled An act relating to juvenile jurisdiction of district, county, and statutory courts.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

(Senator Blake in Chair)

SENATE BILL 357 ON SECOND READING

The Senate resumed consideration of **S.B. 357** on its second reading and passage to engrossment, with an amendment by Senator Jones of Harris to the pending amendment by Senator Meier.

Question - Shall the amendment to the pending amendment be adopted?

MOTION TO PERMIT COMMITTEES TO MEET WHILE SENATE IN SESSION

Senator Jones of Taylor moved that the Subcommittee on Finance and the Committee on Finance be permitted to meet while the Senate was in session.

There was objection.

Pending discussion of the amendment, Senator Farabee occupied the Chair.

MESSAGE FROM THE HOUSE

House Chamber
April 3, 1979

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I AM DIRECTED BY THE HOUSE TO INFORM THE SENATE THAT THE HOUSE HAS PASSED THE FOLLOWING:

HB 1160, A bill to be entitled An Act relating to the sale of certain property subject to a possessory lien.

HB 983, A bill to be entitled An Act amending Article 2212b (Acts 1973, 63rd Legislature, page 1767, Chapter 646), by adding a provision relating to services performed or attempted to be performed of an emergency nature; and declaring an emergency.

HB 1099, A bill to be entitled An Act relating to the exclusion of implied warranties applicable to the sale or barter of certain livestock.

HB 638, A bill to be entitled An Act relating to weight and length requirements for vehicles transporting seed cotton modules.

HB 844, A bill to be entitled An Act relating to the sale of real property by certain hospital authorities.

HB 1368, A bill to be entitled An Act relating to uranium surface mining and reclamation.

HB 868, A bill to be entitled An Act relating to regulation of the planning, development, construction, modification, and expansion of certain health care facilities and services; amending Sections 3.01, 3.02, 3.05, 3.06, 3.07, 3.08, 3.09, 3.11, 3.13, and 3.14 of the Texas Health Planning and Development Act (Article 4418(h), Vernon's Annotated Civil Statutes).

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

SENATE BILL 357 ON SECOND READING

The Senate resumed consideration of **S.B. 357** on its second reading and passage to engrossment with an amendment by Senator Jones of Harris to a pending amendment by Senator Meier.

Question - Shall the amendment to the pending amendment be adopted?

(Senator Howard in Chair)

On motion of Senator Meier, the amendment by Senator Jones of Harris to the pending amendment by Senator Meier was tabled by the following vote: Yeas 17, Nays 11.

Yeas: Andujar, Blake, Braecklein, Farabee, Harris, Howard, Jones of Taylor, Kothmann, Meier, Mengden, Moore, Price, Santiesteban, Short, Snelson, Traeger, Williams.

Nays: Brooks, Clower, Doggett, Jones of Harris, Mauzy, Ogg, Parker, Patman, Schwartz, Truan, Vale.

Absent: Creighton, Longoria, McKnight.

Senator Clower offered the following amendment to the pending amendment by Senator Meier:

Amend Senate Bill 357 by adding a subsection (23) to Section 17.46(b):

“(23) the failure of a person to disclose a past or existing material fact known to him.

The amendment was read.

Pending discussion of the amendment, Senator Mengden occupied the Chair.

(President in Chair)

ADMINISTRATION COMMITTEE GRANTED PERMISSION TO MEET

Senator Jones of Harris moved that Members of the Administration Committee be excused so they might meet to consider bills to be placed on the Local and Uncontested Bills Calendar.

The motion prevailed by the following vote: Yeas 24, Nays 5.

Yeas: Andujar, Blake, Braecklein, Brooks, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, McKnight, Meier, Mengden, Moore, Patman, Price, Santiesteban, Schwartz, Short, Snelson, Traeger, Vale, Williams.

Nays: Clower, Doggett, Mauzy, Parker, Truan.

Absent: Creighton, Ogg.

SENATE BILL 357 ON SECOND READING

The Senate resumed consideration of **S.B. 357** on its second reading and passage to engrossment with an amendment by Senator Clower to an amendment by Senator Meier pending.

Question - Shall the amendment to the pending amendment be adopted?

On motion of Senator Meier the amendment by Senator Clower to the pending amendment by Senator Meier was tabled by the following vote: Yeas 16, Nays 13.

Yeas: Andujar, Blake, Harris, Howard, Jones of Taylor, Longoria, McKnight, Meier, Mengden, Moore, Price, Santiesteban, Short, Snelson, Traeger, Williams.

Nays: Braecklein, Brooks, Clower, Doggett, Farabee, Jones of Harris, Kothmann, Mauzy, Parker, Patman, Schwartz, Truan, Vale.

Absent: Creighton, Ogg.

Senator Doggett offered the following amendment to the pending amendment to the bill:

Amend Floor Amendment No. 1 to SB 357 by amending Section 7 to read as follows: Section 7. Chapter 17, Business & Commerce Code, as amended by adding Section 17.50B to read as follows:

Sec. 17.50B AFFIRMATIVE DEFENSES TO TREBLE DAMAGES. The following shall be affirmative defenses to any action for the trebling of damages under this subchapter and if established, the consumer shall be entitled to attorney's fees and actual damages only:

(1) That the defendant did not commit the act or practice about which complaint is made knowingly or through the exercise of gross negligence; or

(2) That the defendant received no written notice from the consumer advising the defendant of the nature of the consumer's complaint and of the actual damages claimed at such time before suit was filed, provided that no such notice shall be required when a claim is asserted by way of counterclaim, or when the giving of such notice before the filing of suit is rendered impracticable by the running of the statute of limitations, or that within 30 days after he received such a written notice he tendered to the consumer:

(A) the cash value of the consideration received from the consumer or the cash value of the benefit promised, whichever is greater; and

(B) the expenses, including attorney's fees, if any, reasonably incurred by the consumer in asserting his claim against the defendant, or

(3) in the case of a suit under Section 17.50(a)(2) that the defendant was not given a reasonable opportunity to cure the defects or malfunctions before suit was filed; or

(4) it is claimed that the act complained of resulted primarily in damages for physical injury to the person.

The amendment was read.

Pending discussion of the amendment, Senator Andujar occupied the Chair.

(President in Chair)

Senator Meier requested a full reading of the amendment.

There was objection.

On motion of Senator Schwartz the amendment by Senator Doggett to the pending amendment by Senator Meier was tabled by the following vote: Yeas 19, Nays 3.

Yeas: Andujar, Blake, Braecklein, Brooks, Creighton, Farabee, Harris, Kothmann, Longoria, McKnight, Meier, Mengden, Moore, Patman, Price, Santiesteban, Short, Vale, Williams.

Nays: Clower, Doggett, Schwartz.

Absent: Howard, Jones of Harris, Jones of Taylor, Mauzy, Ogg, Parker, Snelson, Traeger, Truan.

MOTION TO ADJOURN

Senator Schwartz moved the Senate stand adjourned until 10:30 o'clock a.m. tomorrow.

The motion was lost by the following vote: Yeas 6, Nays 18.

Yeas: Clower, Doggett, Mauzy, Patman, Schwartz, Truan.

Nays: Andujar, Blake, Braecklein, Brooks, Creighton, Farabee, Harris, Kothmann, Longoria, McKnight, Meier, Mengden, Moore, Price, Santiesteban, Short, Vale, Williams.

Absent: Howard, Jones of Harris, Jones of Taylor, Ogg, Parker, Snelson, Traeger.

MESSAGE FROM THE HOUSE

House Chamber
April 3, 1979

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I AM DIRECTED BY THE HOUSE TO INFORM THE SENATE THAT THE HOUSE HAS PASSED THE FOLLOWING:

HB 862, A bill to be entitled An Act relating to employees of the State Treasurer; amending Section 2, Chapter 143, General Laws, Acts of the 38th Legislature, 1923, as amended (Article 4375, Vernon's Texas Civil Statutes) and Section 13, Chapter 21, General Laws, Acts of the 31st Legislature, 2nd Called Session, 1909, (Article 4376, Vernon's Texas Civil Statutes).

HB 1227, A bill to be entitled An Act relating to the authority of county child welfare boards.

HB 1424, A bill to be entitled An Act relating to the control and regulation of exploration for and surface mining of coal and the reclamation of the mined area; providing penalties.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

SENATE BILL 357 ON SECOND READING

The Senate resumed consideration of **S.B. 357** on its second reading and passage to engrossment with an amendment by Senator Meier pending.

Question - Shall the pending amendment be adopted?

On motion of Senator Meier Senate Rule 13 was suspended to allow the Senate to continue consideration of **S.B. 357** on Wednesday, April 4, 1979, by the following vote: Yeas 26, Nays 0.

Absent: Howard, Jones of Harris, Jones of Taylor, Ogg, Traeger.

Senator Schwartz offered the following amendment to the pending amendment to the bill:

Amend **S.B. 357** by striking Section 3 thereof, and renumbering all subsequent sections accordingly.

The amendment was read.

(Senator Blake in Chair)

Pending discussion of the amendment, Senator Farabee occupied the Chair.

On motion of Senator Meier the amendment by Senator Schwartz to the pending amendment by Senator Meier was tabled by the following vote: Yeas 18, Nays 6.

Yeas: Andujar, Blake, Brooks, Creighton, Farabee, Harris, Howard, Jones of Taylor, Longoria, McKnight, Meier, Mengden, Moore, Price, Short, Snelson, Traeger, Williams.

Nays: Braecklein, Doggett, Kothmann, Patman, Schwartz, Vale.

Absent: Clower, Jones of Harris, Mauzy, Ogg, Parker, Santiesteban, Truan.

(President in Chair)

Senator Schwartz offered the following amendment to the pending amendment to the bill:

Amend Senate Bill 357 by striking Section 3 of the bill and substituting in lieu thereof the following:

SECTION 3. Section 17.45, Business & Commerce Code, is amended by adding Subdivision (10) to read as follows:

"(10) 'Actual damages' means any economic, physical, or mental loss or injury to the consumer that is caused by a false, misleading, or deceptive act or practice, by a breach of warranty, by an unconscionable action or course of action, or by a violation of Article 21.21 of the Texas Insurance Code, as amended, or of the rules or regulations issued by the State Board of Insurance thereunder."

The amendment was read.

On motion of Senator Meier the amendment by Senator Schwartz to the amendment by Senator Meier was tabled by the following vote: Yeas 18, Nays 7.

Yeas: Andujar, Blake, Brooks, Creighton, Farabee, Harris, Howard, Jones of Taylor, Longoria, McKnight, Meier, Mengden, Moore, Price, Short, Snelson, Traeger, Williams.

Nays: Braecklein, Doggett, Kothmann, Mauzy, Patman, Schwartz, Vale.

Absent: Clower, Jones of Harris, Ogg, Parker, Santiesteban, Truan.

Wednesday, April 4, 1979

Senator Mauzy offered the following amendment to the pending amendment to the bill:

Amend SB 357 by striking Section 8 thereof, and renumbering all subsequent sections accordingly.

The amendment was read.

Pending discussion of the amendment, Senator Jones of Taylor occupied the Chair.

(President in Chair)

On motion of Senator Meier the amendment by Senator Mauzy to the amendment by Senator Meier was tabled by the following vote: Yeas 19, Nays 5.

Yeas: Andujar, Blake, Braecklein, Brooks, Creighton, Farabee, Harris, Howard, Jones of Taylor, McKnight, Meier, Mengden, Moore, Patman, Price, Santiesteban, Short, Traeger, Williams.

Nays: Doggett, Jones of Harris, Kothmann, Mauzy, Vale.

Absent: Clower, Longoria, Ogg, Parker, Schwartz, Snelson, Truan.

Senator Creighton moved the Previous Question on the adoption of the amendment by Senator Meier and on the passage of the bill to engrossment.

The motion was duly seconded by Senators Moore, Harris, Blake, Price and Howard.

The Previous Question was ordered by the following vote: Yeas 15, Nays 10.

Yeas: Andujar, Blake, Braecklein, Brooks, Creighton, Farabee, Harris, Howard, Jones of Taylor, Meier, Mengden, Moore, Price, Traeger, Williams.

Nays: Doggett, Jones of Harris, Kothmann, Mauzy, McKnight, Parker, Patman, Santiesteban, Short, Vale.

Absent: Clower, Longoria, Ogg, Schwartz, Snelson, Truan.

The amendment by Senator Meier was adopted by the following vote: Yeas 19, Nays 6.

Yeas: Andujar, Blake, Braecklein, Brooks, Creighton, Farabee, Harris, Howard, Jones of Taylor, McKnight, Meier, Mengden, Moore, Price, Santiesteban, Short, Traeger, Vale, Williams.

Nays: Doggett, Jones of Harris, Kothmann, Mauzy, Parker, Patman.

Absent: Clower, Longoria, Ogg, Schwartz, Snelson, Truan,

On motion of Senator Meier and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was then passed to engrossment by the following vote: Yeas 18, Nays 7.

Yeas: Andujar, Blake, Braecklein, Brooks, Creighton, Farabee, Harris, Howard, Jones of Taylor, McKnight, Meier, Mengden, Moore, Price, Santiesteban, Short, Traeger, Williams.

Nays: Doggett, Jones of Harris, Kothmann, Mauzy, Parker, Patman, Vale.

Absent: Clower, Longoria, Ogg, Schwartz, Snelson, Truan.

MOTION TO PLACE SENATE BILL 357 ON THIRD READING

Senator Meier moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **S.B. 357** be placed on its third reading and final passage.

The motion was lost by the following vote (Not receiving four-fifths vote of the Members of the Senate present): Yeas 19, Nays 7.

Yeas: Andujar, Blake, Braecklein, Brooks, Creighton, Farabee, Harris, Howard, Jones of Taylor, Kothmann, McKnight, Meier, Mengden, Moore, Price, Santiesteban, Traeger, Vale, Williams.

Nays: Clower, Doggett, Jones of Harris, Mauzy, Patman, Short, Truan.

Absent: Longoria, Ogg, Parker, Schwartz, Snelson.

MEMORIAL RESOLUTIONS

S.R. 378 - By Short: Memorial resolution for Kenneth H. Haggard, Eddie C. Swafford and Larry D. Tucker.

S.R. 379 - By Farabee: Memorial resolution for Gene Collins, Jr.

S.R. 380 - By Farabee: Memorial resolution for Rex Holder.

WELCOME AND CONGRATULATORY RESOLUTIONS

S.R. 374 - By Short: Extending congratulations to the Seminole High School basketball team.

S.R. 376 - By Snelson: Extending congratulations to H. L. Kokernot, Jr.

S.R. 377 - By Parker: Extending congratulations to the Optimist Southern Little League of Port Arthur.

ADJOURNMENT

On motion of Senator Moore the Senate at 3:06 o'clock a.m. adjourned in memory of The Reverend Martin Luther King, Jr., until 10:30 o'clock a.m. today.